

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

ASHLEY GOMEZ,

Plaintiff,

v.

EL REY SUPERMERCADO, et al.,

Defendants.

Case No. 1:23-cv-00203-JLT-SAB

ORDER EXTENDING TIME FOR  
DISPOSITIONAL DOCUMENTS TO BE FILED  
AND DIRECTING CLERK OF THE COURT TO  
TERMINATE FATHI HUSSEIN AS A  
DEFENDANT IN THIS ACTION

(ECF No. 8)

On April 19, 2023, in response to the parties' notice of settlement, the Court vacated all pending matters and dates and ordered the parties to file dispositional documents no later than May 9, 2023. (ECF Nos. 6, 7.)

On May 9, 2023, the parties filed a stipulated request for an extension of time to file dispositional documents. (ECF No. 8.) In addition, Plaintiff submitted a notice of dismissal pursuant to Federal Rule of Civil Procedure 41(a) with respect to the dismissal of Defendant Fathi Hussein. (Id.) The dismissal of Defendant Hussein is with prejudice, with the parties to bear their own attorneys' fees, expenses and costs. (Id. at 3.) The claims against the other named Defendants are not subject to Plaintiff's notice of dismissal and will remain active until the final dispositional documents are filed. The parties proffer the reason for the instant stipulation and

1 notice is that, while conferring over the dispositional documents, the parties identified a factual  
2 dispute as to whether Defendant Hussein was confused with another individual and potentially  
3 misnamed as a defendant in this matter. (Id. at 2.) As a result of this discovery, there have been  
4 delays in obtaining all required signatures to the settlement agreement. (Id.) The parties  
5 therefore request the Court extend the deadline to file dispositional documents under May 23,  
6 2023. (Id. at 3.)

7 As to Plaintiff's notice of dismissal, Rule 41(a) of the Federal Rules of Civil Procedure  
8 allows a party to dismiss some or all of the defendants in an action through a Rule 41(a) notice.  
9 Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997); see also Concha v. London, 62  
10 F.3d 1493, 1506 (9th Cir. 1995) ("The plaintiff may dismiss either some or all of the  
11 defendants—or some or all of his claims—through a Rule 41(a)(1) notice."); Hells Canyon Pres.  
12 Council v. U.S. Forest Serv., 403 F.3d 683, 687 (9th Cir. 2005) (The Ninth Circuit has "only  
13 extended the rule to allow the dismissal of all claims against one defendant, so that a defendant  
14 may be dismissed from the entire action."). "Filing a notice of voluntary dismissal with the court  
15 automatically terminates the action as to the defendants who are the subjects of the notice."  
16 Concha, 62 F.3d at 1506.

17 As to the parties' stipulated request for an extension of the dispositional documents filing  
18 deadline, the Court shall grant the requested extension, up to May 23, 2023, to file dispositional  
19 documents. However, the parties are advised that no further extensions of time shall be granted  
20 absent a strong showing of good cause. Furthermore, the parties are reminded that requests to  
21 extend filing deadlines that are made on the eve of a deadline will be looked upon with disfavor  
22 and may be denied absent a showing of good cause for the delay in seeking an extension. If such  
23 a request is made after a deadline, the party seeking the nunc pro tunc extension must show  
24 additional good cause as to why the matter was filed late.

25 Accordingly, IT IS HEREBY ORDERED that:

- 26 1. The parties SHALL FILE dispositional documents **no later than May 23, 2023**.  
27 Failure to comply with the Court's order may result in the imposition of sanctions,  
28 including monetary sanctions against all parties and their attorneys of record and

dismissal of this action; and

2. The Clerk of the Court is DIRECTED to terminate Defendant Fathi Hussein as a defendant in this action.

IT IS SO ORDERED.

Dated: May 9, 2023

A handwritten signature in blue ink, appearing to read "Emily A. Be", is written over a horizontal line.

UNITED STATES MAGISTRATE JUDGE